

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**
CHARLESTON DIVISION

IN RE: ETHICON, INC.
PELVIC REPAIR SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL 2327
CHIEF JUDGE JOHNSTON

THIS DOCUMENT RELATES TO CASES
IDENTIFIED ON EXHIBIT A

ORDER AND SUGGESTION OF REMAND

Pursuant to 28 U.S.C. § 1407 and the Rules for Multidistrict Litigation promulgated thereunder, specifically Rule 10.1(b), the court suggests that the cases on Exhibit A be remanded to the United States District Courts from which they came, as identified on Exhibit A. The cases were transferred by the Judicial Panel on Multidistrict Litigation (“JPML”) and are related to MDL 2327 (“Ethicon MDL”), 2:12-md-2327, one of seven MDLs assigned to Judge Joseph R. Goodwin by the JPML. The seven MDLs combined totaled over 100,000 cases since inception. At present, under 2,000 MDL cases remain.

During the pendency of this MDL litigation, Judge Goodwin developed a conflict in certain cases assigned to him, including those on Exhibit A. As a result, the JPML reassigned the cases on Exhibit A to me. Of the approximately 183 cases assigned to me, 6 remain. Of the remaining 6 cases, 3 cases identified on Exhibit A are ready to be remanded to the jurisdictions from which they came. *Thacker* was placed on the court’s inactive docket after the parties reported the case had settled, but it was never dismissed by the parties. Two cases (*Kennedy* and *Burgin*) were never placed on a scheduling order and, at this stage of the MDL litigation, will not be placed on one by

this court. For the convenience of the parties and in order to promote the final resolution of these cases, it appears to the court that the cases would be more expeditiously concluded in the courts from which they came.

On or before **January 28, 2020 (7 days from the date of this order)**, the parties are **ORDERED** to confer and to file *in their individual case*, all documents from the main MDL that the parties jointly deem relevant to constitute an appropriate record for the receiving court to consider. When filing the documents from the main MDL, the parties are directed to use the CM/ECF event entitled “Designation of Record for MDL Transfers” (available under Civil > Other Filings > Other Documents). When completing the event, the “Main Document” should be the list of joint designations from the main MDL, and the “Attachments” should be each individual document on the joint designation list with the “Description” being the ECF number and a brief description of the document (*i.e.* ECF 96 – Defendant’s Motion for Summary Judgment).

The court **ORDERS** that upon receipt and filing of an order to remand from the Clerk of the JPM (hereinafter the “Transfer Date”), the Clerk of this court, pursuant to 28 U.S.C. § 1407, shall remand the cases to the jurisdictions identified on Exhibit A. If the cases remain pending on the Transfer Date, they must be remanded, and the parties shall bear the consequences in the receiving court of any failure to prepare an appropriate record as directed in this order. The parties and the receiving court are advised that all Pretrial Orders entered in this matter are available for review on the court’s website at www.wvsd.uscourts.gov/MDL/2327/orders.html and the master docket sheet can be found on this court’s CM/ECF at 2:12-md-2327. *Finally, the court advises the parties that while the docket of these individual cases will be remanded to the receiving court, it is the parties’ responsibility to follow the receiving court’s procedure for identifying any individual motions that remain pending and in need of ruling.*

On the Transfer Date, the Clerk is hereby **DIRECTED** to use the appropriate function in CM/ECF to extract the cases on Exhibit A and remand them to the jurisdictions identified on Exhibit A. After remand of the cases, the Clerk is **DIRECTED** to formally dismiss the cases and strike them from the docket of this court.

It is so **ORDERED**.

The court further **DIRECTS** that a copy of this Order and Suggestion of Remand and Exhibit A be filed in the cases on Exhibit A and sent to the Clerk of the MDL Panel and counsel of record or any unrepresented party.

ENTER: January 21, 2020



THOMAS E. JOHNSTON, CHIEF JUDGE

Exhibit A

<u>Case Name</u>	<u>Case Number</u>	<u>Jurisdiction</u>
Kennedy v. Boston Scientific Corp.	2:12-cv-02071	D Oregon
Burgin, et al. v. Ethicon, Inc., et al.	2:13-cv-21112	WD Kentucky
Thacker v. Ethicon, Inc., et al.	2:12-cv-03870	ED Kentucky